Calendar No. 742

100TH CONGRESS *2d Session*	SENATE	REPORT 100-390

RELEASE OF AIRPORT RESTRICTIONS AT NEWPORT NEWS, VA

Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

OF THE

SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ON

S. 2247

JUNE 21 (legislative day, JUNE 20), 1988.—Ordered to be printed

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U.S. GOVERNMENT PRINTING OFFICE
19-010 WASHINGTON : 1988

S263-7

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

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100TH CONGRESS
2d Session

SENATE

REPORT
100-390

RELEASE OF AIRPORT RESTRICTIONS AT NEWPORT NEWS, VIRGINIA

JUNE 21 (legislative day, JUNE 20), 1988.--Ordered to be printed

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Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

[To accompany S. 2247]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 2247) to modify restrictions on the use of certain property conveyed to the Peninsula Airport Commission, having considered the same, reports favorably thereon with amendments and recommends that the bill do pass.

PURPOSE OF THE BILL

The purpose of the bill is to authorize the Secretary of Transportation to consider a request from the Peninsula Airport Commission to release restrictions on the use of airport properties at the Patrick Henry Airport in Newport News, VA.

BACKGROUND AND NEEDS

The Federal Aid to Airports Act of 1946 ceded federally owned airports to civilian sponsors. The 1946 act stipulated that the land must be used only for aeronautical purposes; it did not authorize the granting of releases from these restrictions in the deed of conveyance.

In 1986, Public Law 99-618 was enacted, authorizing limited release of deed restrictions on property originally conveyed to the Peninsula Airport Commission, which operates the Patrick Henry Airport in Newport News, VA. The Commission is now seeking releases on three parcels of land totaling 13 acres. These properties were conveyed by the Commission to the city of Newport News, VA

and two private entities under the mistaken impression that the land in question was not restricted to airport use.

S. 2247 would repeal two paragraphs of the 1986 act which limit that release to not more than 7.5 acres of real property and restrict the conveyance of property to the city of Newport News, VA. The Secretary may release the restrictions if the Federal Aviation Administration determines that the use of the property involved will not affect the operation or development of the airport. Attorneys for the Peninsula Airport Commission have stated that these parcels of land were not needed for airport purposes and that the proceeds from their sale were used by the Commission for the development, improvement, operation, and maintenance of the airport.

Legislative History

S. 2247 was introduced by Senator Trible on March 31, 1988, and cosponsored by Senator Warner. No hearing was held by the committee on this legislation.

The Committee met in open executive session on May 24, 1988, to consider S. 2247. The Committee then ordered the bill, with technical amendments, reported without objection.

Estimated Costs

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

U.S. Congress,
Congressional Budget Office,
Washington, DC, May 27, 1988.

Hon. Ernest F. Hollings,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has reviewed S. 2247, a bill to modify restrictions on the use of certain property conveyed to the Peninsula Airport Commission, as ordered reported by the Senate Committee on Commerce, Science, and Transportation, May 24, 1988. We estimate that no cost to the Federal Government or to State or local governments would result from enactment of this bill.

In 1947, the United States conveyed certain property in Newport News and York County, VA, to the Peninsula Airport Commission for airport purposes. S. 2247 would repeal certain restrictions contained in Public Law 99–618 that limit the commission's ability to convey portions of the property to others.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

James L. Blum,
Acting Director.

Regulatory Impact Statement

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported.

The Committee believes that the bill should not impose a significant regulatory, economic, or paperwork burden, nor should it adversely affect the personal privacy of any individual.

Section-by-Section Analysis

SECTION 1

This section would repeal paragraphs (3) and (4) of subsection (b) of the first section of Public Law 99-618, which authorized the Secretary of Transportation to release restrictions on the use of certain property conveyed to the Peninsula Airport Commission in Newport News, VA. The two paragraphs to be repealed limit the release of property at the Patrick Henry Airport to not more than 7.5 acres of real property and restrict the conveyance of property to the city of Newport News, VA.

Changes in Existing Law

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman).

Public Law 99-618

FIRST SECTION

That (a) * * *

(b) Any release granted by the Secretary of Transportation under subsection (a) of this section shall be subject to the following conditions—

(1) * * *

(2) * * *

[(3) Any release granted by the Secretary of Transportation under subsection (a) of this section may not apply to more than 7.5 acres of real property.

[(4) The Peninsula Airport Commission may not lease or convey any interest in any of the property which the United States conveyed to such Commission by the deed described in subsection (a), to any person or business concern other than the City of Newport News, Virginia.]

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Calendar No. 743

100TH CONGRESS
2d Session

SENATE

REPORT
100-391

HEARING AID COMPATIBILITY ACT OF 1988

Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

OF THE

SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ON

S. 314

JUNE 21 (legislative day, JUNE 20), 1988.—Ordered to be printed

---

U.S. GOVERNMENT PRINTING OFFICE

19-010

WASHINGTON : 1988

S263-8

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

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100TH CONGRESS
2d Session

SENATE

REPORT
100-391

HEARING AID COMPATIBILITY ACT OF 1988

JUNE 21 (legislative day, JUNE 20), 1988.—Ordered to be printed

Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

[To accompany S. 314]

The Commitee on Commerce, Science, and Transportation, to which was referred the bill (S. 314) to require certain telephones to be hearing aid compatible, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill do pass.

PURPOSE OF BILL

The bill, as reported, would require almost all telephones manufactured or imported more than one year after enactment of the bill to be compatible with hearing aids. The bill would improve the ability of hearing aid users to communicate by telephone.

BACKGROUND AND NEEDS

In the Telecommunications for the Disabled Act of 1982, Congress required all "essential" telephones to be hearing aid compatible and required that the packaging of all telephones inform the consumer of whether the telephone is compatible. The Committee believes that this law established a good foundation to meet the needs of the hearing-impaired but that further progress should be made. The Hearing Aid Compatibility Act of 1988 would expand upon the 1982 Act and provide a greater degree of assurance that hearing aid users can have access to a hearing aid compatible telephone.

BACKGROUND

The Technology of Hearing Aid Compatibility

Most hearing aids contain a small microphone that amplifies all sounds that reach the ear. Placing a telephone next to this microphone, however, causes a loud squeal or "feedback" that prevents the user from hearing the voice at the other end. To address these problems, many hearing aids also contain a "telecoil". The telecoil is a small, tightly-wrapped piece of wire that, when activated, can pick up the voice signal from the electromagnetic field that leaks from "compatible" telephones. As long as the telephone is compatible (*i.e.*, it permits enough leakage of this magnetic field), users of telecoil-equipped hearing aids can communicate effectively over the telephone without "feedback" and without the amplification of unwanted background noise.

Telephones may also be "compatible" without a telecoil. Some telephones, for instance, contain internal amplifiers. If the voice signal is sufficiently amplified, the telephone can be placed far enough away from the hearing aid to avoid any "feedback". It is also possible that other means of "compatibility" may be developed in the future.

Hearing Aid Compatible Telephones

Hearing aid compatible (HAC) telephones developed almost as an historical accident. For years, all the telephones manufactured by AT&T (formerly the sole supplier of telephones in the United States) leaked a magnetic field for no reason. Hearing aid manufacturers learned to take advantage of this capability by designing their hearing aids to include a telecoil.

All of the telephones manufactured by GTE and all AT&T-manufactured telephones except for the Trimline model are currently hearing aid compatible. The opening of the telephone equipment market to competitive suppliers, however, has caused the percentage of hearing aid compatible telephones in use in the United States to decline. the Electronic Industries Association (EIA) estimates that between 75 percent to 85 percent of the telephones in use today are HAC.

Current Law

The Telecommunications for the Disabled Act of 1982 required all "essential" telephones to be hearing aid compatible. The Act defined "essential" telephones as "coin-operated telephones, telephones provided for emergency use, and other telephones frequently needed for use by persons using such hearing aids." (47 U.S.C. 610(b)) The Federal Communications Commission (FCC), to which the Act gave enforcement authority, further defined "essential" telephones to include the following:

coin-operated telephones (required by the statute) and publicly available telephones;

emergency telephones in automobile, railroad and subway tunnels, on highways, and in elevators, hospitals, prisons, and convalescent homes;

credit card telephones unless a coin-operated telephone is nearby;

the telephone at a hearing-impaired person's work station; and

10 percent of the telephones in a motel or hotel.

In March 1988, the FCC proposed to expand this list to include all credit card telephones and telephones located in common areas in a hearing-impaired employee's workplace. At the same time, the FCC concluded that no further legislation was necessary.

THE NEED FOR ADDITIONAL LEGISLATION

Some hearing aid users seek access to telephones that are not classified as "essential"

By imposing the HAC requirement on only essential telephones, the 1982 Act does not go as far as possible to advance the rights of hearing aid users to communicate by telephone. No matter how broadly the FCC defines "essential", it is imposible to specify in advance all the telephones that a hearing aid user might need. Travelling salespeople, repairmen and women, doctors, and others who make house calls or work outside of an office, for instance, often use telephones that would not be classified as "essential". The lack of access to HAC telephones in these situations can limit a hearing aid user's ability to function in certain jobs. Similarly, it is impossible to predict beforehand when an emergency situation may arise. (See, Testimony of Karen Peltz Strauss, Gallaudet University, note 3, before Communications Subcommittee of this Committee, March 31, 1988.) Emergencies may occur, for instance, at a friend's home or in another person's business or office. In short, the situations in which a hearing aid user would need access to a telephone are innumerable. (As is discussed below, the portable amplifier is an impractical solution to these needs because it adds cost and inconvenience.)

A law requiring all telephones manufacutured or imported to be hearing aid compatible would be easier to enforce

Even if the FCC's rules theoretically covered all the potential situations in which a hearing aid user might need a HAC telephone, it is doubtful that such rules could be enforced. A number of the letters provided to the Committee at its March 31 hearing by Mr. David Saks, for instance, indicate that many hotel and motel residents have had trouble finding HAC telephones. (See, Testimony of David Saks, Attachments H, 1H, 2, 4¾, 5, and 8, before Communications Subcommittee of this Committee, March 31, 1988.)

There are at least two reasons for this. First, except for coin-operated telephones, the 1982 Act bases the HAC requirement upon the location of the telephone, not the type of the telephone. The burden of complying with the law thus rests on the person or business that chooses to install the telephone. It is difficult to inform every potential telephone installer of the HAC requirements. The members of this group have no natural lines of communication or means of informing each other of the Act's requirements. The widespread publicity required is too large a task for the small hearing aid organizations to undertake successfully.

Second, hearing aid users are unlikely to submit complaints concerning failures to comply with the 1982 law. The FCC's rules that

define "esssential" telephones are complex and not widely known. It is likely that a hearing aid user who attempted to use a non-HAC telephone would not know whether the telephone was supposed to be compatible or not, or where any complaint should be directed.

The Committee notes that the number of telephone manufacturers is much smaller than the number of hotels, motels, and hospitals alone. Further, most telephone manufacturers are represented by trade associations that monitor Federal legislation and inform their members of new laws. By imposing the responsibility for hearing aid compatibility at the time of manufacture rather than the time of installation, the law draws a clear line and places the burden for compliance on a smaller, and more organized, number of entities.

The percentage of hearing aid compatible telephones in the U.S. is in decline

Over the last two decades, the FCC has separated the provision of telephone equipment from the provision of telephone service and opened the telephone equipment market to competition. Foreign manufacturers have taken advantage of the open U.S. market by flooding the country with new telephones, many of which are not HAC. The witness from GTE Consumer Communications Products Corporation, Mr. Freeman Robinson, stated at the March 31 hearing that, "[S]ince deregulation nearly 100 million telephones have come into this country, and not a high percentage of those are hearing aid compatible." Whereas once almost all telephones used in the United States were HAC, EIA now estimates that only 75 percent to 85 percent of telephones in use today are compatible. The Committee is concerned that the growth in foreign-manufactured telephones since the opening of the U.S. market has meant a steady erosion in the percentage of available HAC telephones in this country.

The cost of requiring new telephones to be compatible is insubstantial and would not burden other consumers

At the March 31 hearing, Mr. Gerald Brock, Chief of the FCC's Common Carrier Bureau, testified that the cost of requiring all telephones to be compatible could range from $12 million to $24 million per year. Mr. Robinson stated that the per unit cost of making GTE's telephones compatible was between $.20 and $.50. Mr. Robinson further testified that "once the volumes are established and everyone is doing it [making telephones compatible], I am certain that the cost will plummet to close to or break even. . . ."

Mr. Robinson also stated that this additional cost, if any, would not be passed on to the consumer: "[W]e see no differential between hearing aid compatible and non-hearing aid compatible telephones at retail pricing, so that I would see no impact upon the consumer market if this became a universally accepted requirement." The Committee thus believes that an HAC requirement would impose no additional cost on consumers.

On the other hand, retrofitting telephones currently in use to make them HAC or requiring refurbished telephones to be compat-

ible appears to be too costly at this time. Aside from the obvious administrative and enforcement problems of recalling all non-HAC telephones, the cost of retrofitting telephones to make them HAC appears to be about $1.50 per telephone, or more in the case of certain telephones. The Committee believes that the benefits of requiring all telephones to be HAC at this time are outweighed by these costs. The Committee notes that, as old telephones are replaced by new telephones, S. 314 will eventually cause almost all telephones to be HAC. (The FCC currently requires some telephones to be retrofitted to be HAC in order to comply with the law's mandate that "essential" telephones must be HAC. This bill, S. 314, does not alter the requirements of the current law regarding retrofitting.)

ARGUMENTS IN OPPOSITION TO THE BILL

Telephone equipment manufacturers represented by the EIA oppose the bill. Mr. Pete Bennett, representing EIA at the March 31 hearing, argued that it is unnecessary to require all telephones to be hearing aid compatible for several reasons: (1) hearing aid compatibility is based on a declining technology, as is shown by the declining percentage of hearing aids sold with telecoils; (2) hearing aid users can purchase a small $25 amplifier that can be used on any telephone and can achieve the same effect as requiring the telephone to be HAC; and (3) imposing compatibility requirements on all telephones will impede the development of new technology which would benefit all consumers. Each of these arguments are discussed below.

The telecoil is not a declining technology

While the percentage of hearing aids with telecoils has declined, the actual number has remained relatively steady. The Hearing Industries Association gives the following figures on sales of hearing aids from 1980 to 1986:

	Total number sold	Percent with telecoils	Number with telecoils
Year:			
1980	736,642	54	399,333
1981	834,201	51	425,442
1982	854,485	48.5	414,425
1983	1,029,680	43.5	447,910
1984	1,102,887	38	419,097
1985	1,136,864	34.5	392,218
1986	1,268,142	29.5	374,101

There is much disagreement over the proper interpretation of this data. Some argue that the usage of telecoil-equipped hearing aids is declining, while others argue that it is stable. Ms. Strauss and Mr. Saks testified at the Committee's hearing that there are about 3 million users of hearing aids with telecoils. The FCC sets its estimate at 1.5 million, while Mr. Bennett of the EIA estimates that only ½ to 1 million people actually use the telecoil.

All agree that most of the growth in hearing aid sales in this decade has been for "in-the-ear" hearing aids. Only 10 percent of in-the-ear hearing aids contain a telecoil because they are too

small. (According to the testimony of Mr. Saks, research to reduce the size of the telecoil so that it can fit inside an in-the-ear hearing aid is continuing.) Ms. Strauss noted in her testimony, however, that in-the-ear hearing aids are also less powerful than the larger, outside-the-ear hearing aids and thus are not suitable for the most severely hard of hearing. The most severely hard of hearing have continued to rely on telecoil-equipped, outside-the-ear hearing aids. Even Mr. Brock, who expressed the FCC's opinion that additional legislation was unnecessary, admitted "that telecoils remain necessary and that they are unlikely to go away, and that therefore telecoil compatibility remains a substantial issue."

The Committee thus believes that, despite the declining percentage of sales, telecoil-equipped hearing aids are not a declining technology. They will continue to be purchased by the most profoundly hearing-impaired, and may increase in number as the population becomes more elderly.

The portable amplifier is an inadequate replacement for hearing aid compatible telephones

Portable amplifiers are sold by AT&T for about $25 and can, according to the testimony of Mr. Bennett, fit on any telephone. EIA believes that these amplifiers can satisfy the needs of hearing aid users who cannot find a compatible telephone. Mr. Bennett also notes that the cost of the amplifier is only a fraction of the cost of a hearing aid.

Mr. Saks and Ms. Strauss do not dispute that the portable amplifier is a valuable device, particularly for those who are not severely hard of hearing. They argue that it is discriminatory to require a hearing aid user to purchase and use such a device when it is not technologically necessary.

The Committee agrees that the portable amplifier is a useful device but is not a substitute for making telephones internally compatible. While the cost of these items is small in relation to the cost of a hearing aid, it is still substantial, particularly for low-income persons. (The Committee notes in this regard that the poverty rates for the elderly, who are the largest users of hearing aids, are much higher than for the general working population.) The device may also be awkward to use, particularly for elderly persons who suffer from arthritis or others with limited manual dexterity. The time it takes to fit the amplifier on the telephone may be of critical importance in an emergency situation. These amplifiers also require an AAA battery.

The Committee also agrees with Mr. Saks and Ms. Strauss that requiring hearing aid users to use an adapter can contribute to the hearing-impaired's feelings of inferiority. Elderly persons in particular can, at times, feel embarrassment at having to use an amplifier in public. While this concern is not overriding, it is influential considering that the technology currently exists to make such a device unnecessary.

The bill does not discourage the development of new technologies

New technologies in telephones could benefit all consumers, whether they use a hearing aid or not. The Committee does not wish to hinder the development of such new technologies by requir-

ing telephones to be HAC. Although such new technologies are, by definition, unknown at the present, new telephones such as quartz phones, digital phones, and wristwatch phones may become available at some point. It is simply impossible to know now whether a HAC requirement could prevent telephone manufacturers from marketing telephones using a new technology.

For this reason, the bill, as reported, contains an explicit provision permitting the manufacturer of a telephone employing a new technology to apply for a waiver from the FCC of the HAC requirement. This provision applies to "new" telephones, *i.e.*, those that employ a technology that has not previously been marketed, and telephones associated with a new technology or service. Before such a waiver could be granted, the applicant must demonstrate that requiring a telephone using the new technology to be HAC would be either infeasible or so costly as to prevent the telephone from being successfully marketed. The FCC must take into account the effect of any exemption on hearing-impaired persons when considering any such request. This provision is primarily intended to apply to the development of telephones for specialized applications.

The Committee also recognizes that certain kinds of telephones currently available cannot be made HAC today. These include telephones used with public and private mobile services. In order to keep these telephones from being pulled from the market while an exemption is sought under the new technology provision, the bill grants a temporary exemption for these telephones. The FCC, however, has the authority to review these exemptions periodically, determine whether they should continue in effect, and revoke or limit them as it sees fit. The bill also establishes a "grace period" for compliance for cordless telephones by extending the period for compliance from one to three years. Finally, the bill grants a permanent exemption for "secure" telephones used to transmit classified or sensitive voice information.

SUMMARY AND CONCLUSION

The Committee believes that the bill, as reported, correctly balances the interests of hearing aid users, telephone manufacturers, and the general public. Since the bill does not apply to existing or refurbished telephones, the bill will not guarantee that hearing aid users can obtain access to a HAC telephone in all situations. It will, however, speed along the transition to universal hearing aid compatibility at virtually no cost to the general public.

The Committee believes that the bill builds upon the success of the 1982 Act and will help to eliminate the disparity between hearing aid users and non-users in obtaining access to the telephone network. Finally, passage of the Hearing Aid Compatibility Act of 1988 recognizes the policy established in the Communications Act of 1934 to "make available, so far as possible, to all the people of the United States a rapid, efficient, . . . communication service with adequate facilities at reasonable charges." (47 U.S.C. 151)

LEGISLATIVE HISTORY

Senator Pressler first introduced a bill to require all telephones to be hearing aid compatible in the 99th Congress. The bill, S. 402,

garnered 28 co-sponsors. The bill was referred to this Committee but no hearings were held. Senator Pressler attached a simplified version of the bill to the Continuing Resolution at the end of the 99th Congress. The amendment was adopted by the Senate without objection but was dropped in conference.

Senator Pressler introduced S. 314 on January 14, 1987, along with seven co-sponsors.

The Communications Subcommittee of this Committee held a hearing on the bill on March 31, 1988. Witnesses included the FCC, two representatives of the hearing-impaired community, and two representatives of telephone manufacturers.

At the May 24, 1988, Executive Session of the Commerce Committee, Senator Pressler offered an amendment in the nature of a substitute to S. 314. The Committee reported favorably on the amendment without objection.

Summary of Major Provisions

The bill, as reported, requires that telephones manufactured in the United States or imported into the United States one year after the date of enactment be compatible with hearing aids. The bill does not apply to refurbished, repaired, or resold phones.

The bill allows manufacturers of telephones using new technologies to apply for a waiver from the FCC if it is infeasible or too costly to make the telephone compatible.

The bill also exempts public and private mobile telephones (such as cellular telephones), and "secure" telephones used for classified communications. It extends the period for compliance by cordless telephones from one year to three years. The bill directs the FCC to review these exemptions periodically and to revoke them if it finds that they are no longer warranted.

Estimated Costs

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

U.S. Congress,
Congressional Budget Office,
Washington, DC, May 27, 1988.

Hon. Ernest F. Hollings,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has reviewed S. 314, the Hearing Aid Compatibility Act of 1988, as ordered reported by the Senate Committee on Commerce, Science, and Transportation, May 24, 1988.

Based on information from the Federal Communications Commission (FCC), we expect that enactment of S. 314 would not result in significant additional cost to the federal government. The bill would require the FCC to promulgate rules to assure that telephones manufactured or imported into the United States are tech-

nologically compatible with hearing aids. Several specific types of telephones would be exempt from this requirement.

No costs would be incurred by state or local governments as a result of enactment of this bill.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JAMES L. BLUM,
Acting Director.

REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation.

NUMBER OF PERSONS COVERED

This legislation requires almost all telephones manufactured or imported for use in the United States to be hearing aid compatible. The bill will affect at least 80 U.S.-based companies that manufacture telephones (according to the EIA). Since these 80 companies account for roughly 85 percent of U.S. production of telecommunications equipment, the legislation will also affect other U.S.-based and non-U.S.-based telephone manufacturers.

ECONOMIC IMPACT

According to the FCC, requiring telephones manufactured or imported more than one year after enactment of the bill to be hearing aid compatible will cost between $12 to $14 million per year. Most estimates of the cost per telephone of hearing aid compatibility range from $.20 to $.50. According to GTE, however, the long-run incremental cost of making telephones compatible may approach zero. This is because the major cost of compatibility is designing the telephone, not in any additional component. According to GTE's testimony at the hearing, the market for telephones is now competitive; thus, if there is a cost increase, it would not be passed on to telephone purchasers. The bill does not require retrofitting of non-HAC telephones manufactured before the effective date of the legislation.

PRIVACY

This legislation will not have any adverse impact on the personal privacy of the individuals affected.

PAPERWORK

This legislation will require a minimal amount of additional paperwork. The FCC must adopt rules to implement this legislation, but many of the rules to enforce this bill, such as the standards governing hearing aid compatibility, were already implemented to enforce the 1982 Act. In the long run, this bill will reduce the regulatory enforcement that is required. This is because the 1982 Act only required that certain telephones be compatible depending upon their location (*i.e.*, in public places, in the workplace, in emer-

gency situations, in a percentage of hotel and motel rooms). The clear line drawn by requiring all telephones to be hearing aid compatible should require fewer rules and should be much easier to enforce.

SECTION-BY-SECTION ANALYSIS

SECTION 1.—TITLE

Section 1 changes the title of the bill from the "Hearing Aid Compatibility Act of 1987" to the "Hearing Aid Compatibility Act of 1988".

SECTION 2.—FINDINGS

Section 2 contains the findings of the Congress with regard to this bill. In brief, the findings are: (1) hearing-impaired persons should have equal access to the telephone network; (2) present technology permits "coupling" between telephones and hearing aids so that hearing-impaired persons may communicate by voice telephone; (3) this technology will provide greater access to telephone services in the future; and (4) telephone access for the hearing-impaired will lead to greater employment opportunities and productivity.

SECTION 3.—REQUIREMENTS FOR TELEPHONE COMPATIBILITY

Section 3(a) amends section 710(b) of the Communications Act in the following manner:

Compatibility

New section 710(b)(1)(A) continues the requirement of the 1982 Act that all "essential" telephones must be hearing aid compatible. New section 710(b)(1)(B) adds the provision directing the FCC to require all telephones manufactured or imported into the United States, more than one year after enactment, to be hearing aid compatible. This legislation is not intended to extend the FCC's jurisdiction to the hearing aid industry. The Committee notes that although the primary means of achieving compatibility is through magnetic coupling of a telecoil, the legislation requires telephones to "provide internal means for effective use with hearing aids that are designed to be compatible with telephones which meet established technical standards for hearing aid compatibility." This language is intended to avoid impeding the development of new technology which can provide benefits similar to those currently achieved through inductive means.

Exemptions

New section 710(b)(2) provides that the FCC's "initial" regulations must exempt (1) public mobile telephones (such as cellular telephones), (2) private radio telephones (such as dispatch phones), (3) cordless telephones, and (4) "secure" telephones (used for classified or sensitive information). The exemption for cordless telephones expires three years after enactment. The FCC is directed to review periodically the exemptions for public mobile and private radio telephones, and determine whether they continue to be war-

ranted. The FCC is explicitly empowered to revoke or limit these exemptions, in whole or in part, if it finds that a type of telephone should no longer be exempt. The standards used to determine if the exemptions are warranted are the same as those used in the next subsection to determine whether exemptions may be granted for new technologies.

New technologies

New section 710(b)(3) permits the FCC to entertain applications to waive the compatibility requirements of new subsection (b)(1)(B) for telephones that employ, or are associated with, a new technology or service. This section does not permit the FCC to waive the requirement in subsection (b)(1)(A) that all "essential" telephones be compatible. Thus, the bill alters none of the requirements of the 1982 Act or the FCC's rules implementing that Act.

The FCC may only entertain waivers for new telephones or telephones associated with a new technology or service. "New" telephones are those that employ a new technology within the telephone. The applicant for a waiver must demonstrate either that compliance with this Act is technologically infeasible or that compliance would be so costly as to prevent the new telephones or the technology or service from being successfully marketed. "Infeasible" in this context means impossible or "undoable." The FCC shall consider the effect on hearing-impaired persons of granting any waiver. The Commission shall periodically review and determine the continued need for any waiver granted under this paragraph.

Definitions

"Essential" telephones are defined in this new section exactly as they are defined in the 1982 Act. Public mobile services and private radio services are defined to reflect their commonly understood meanings. "Secure" telephones are defined as those that must be approved by the U.S. Government for the transmission of classified or sensitive voice communications.

Section 3(b) amends section 710(f) of the Communications Act (1) to require the FCC to adopt rules to implement the Hearing Aid Compatibility Act of 1988 within 9 months after enactment; and (2) thereafter, to review periodically the regulations implementing both the Telecommunications for the Disabled Act of 1982 and the hearing Aid Compatibility Act of 1988.

Changes in Existing Law

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman).

THE COMMUNICATIONS ACT OF 1934

Section 710 of that Act

TELEPHONE SERVICE FOR THE DISABLED

SEC. 710. (a) The Commission shall establish such regulations as are necessary to ensure reasonable access to telephone service by persons with impaired hearing.

[(b) The Commission shall require that essential telephones provide internal means for effective use with hearing aids that are specially designed for telephone use. For purposes of this subsection, the term "essential telephones" means only coin-operated telephones, telephones provided for emergency use, and other telephones frequently needed for use by persons using such hearing aids.]

(b)(1) Except as provided in paragraphs (2) and (3), the Commission shall require that—

(A) all essential telephones, and

(B) all telephones manufactured in the United States (other than for export) more than one year after the date of enactment of the Hearing Aid Compatibility Act of 1988 or imported for use in the United States more than one year after such date,

provide internal means for effective use with hearing aids that are designed to be compatible with telephones which meet established technical standards for hearing aid compatibility.

(2)(A) The initial regulations prescribed by the Commission under paragraph (1) of this subsection after the date of enactment of the Hearing Aid Compatibility Act of 1988 shall exempt from the requirements established pursuant to paragraph (1)(B) of this subsection only—

(i) telephones used with public mobile services;

(ii) telephones used with private radio services;

(iii) cordless telephones; and

(iv) secure telephones.

(B) The exemption provided by such regulations for cordless telephones shall not apply with respect to cordless telephones manufactured or imported more than 3 years after the date of enactment of the Hearing Aid Compatibility Act of 1988.

(C) The Commission shall periodically assess the appropriations of continuing in effect the exemptions provided by such regulations for telephones used with public mobile services and telephones used with private radio services. The Commission shall revoke or otherwise limit any such exemption if the Commission determines that—

(i) such revocation or limitation is in the public interest;

(ii) continuation of the exemption without such revocation or limitation would have an adverse effect on hearing-impaired individuals;

(iii) compliance with the requirements of paragraph (1)(B) is technologically feasible for the telephones to which the exemption applies; and

(iv) compliance with the requirements of paragraph (1)(B) would not increase costs to such an extent that the telephones to which the exemption applies could not be successfully marketed.

(3) The Commission may, upon the application of any interested person, initiate a proceeding to waive the requirements of paragraph (1)(B) of this subsection with respect to new telephones, or telephones associated with a new technology or service. The Commission shall not grant such a waiver unless the Commission determines, on the basis of evidence in the record of such proceeding, that such telephones, or such technology or service, are in the public interest, and that (A) compliance with the requirements of paragraph (1)(B) is technologically infeasible, or (B) compliance with such requirements would increase the costs of the telephones, or of the technology or service, to such an extent that such telephones, technology, or service could not be successfully marketed. In any proceeding under this paragraph to grant a waiver from the requirements of paragraph (1)(B), the Commission shall consider the effect on hearing-impaired individuals of granting the waiver. The Commission shall periodically review and determine the continuing need for any waiver granted pursuant to this paragraph.

(4) For purposes of this subsection—

(A) the term "essential telephones" means only coin-operated telephones, telephones provided for emergency use, and other telephones frequently needed for use by persons using such hearing aids;

(B) the term "public mobile services" means air-to-ground radiotelephone services, cellular radio telecommunications services, offshore radio, rural radio service, public land mobile telephone service, and other common carrier radio communication services covered by part 22 of title 47 of the Code of Federal Regulations;

(C) the term "private radio services" means private land mobile radio services and other communications services characterized by the Commission in its rules as private radio services; and

(D) the term "secure telephones" means telephones that are approved by the United States Government for the transmission of classified or sensitive voice communications.

(c) through (e) * * *

(f) The Commission shall complete rulemaking actions required by this section and issue specific and detailed rules and regulations resulting therefrom within one year after the date of enactment of the Telecommunications for the Disabled Act of 1982. [Thereafter the Commission shall periodically review such rules and regulations.] *The Commission shall complete rulemaking actions required to implement the amendments made by the Hearing Aid Compatibility Act of 1988 within 9 months after the date of enactment of such Act. Thereafter, the Commission shall periodically review the regulations established pursuant to this section.* Except for coin-operated telephones and telephones provided for emergency use, the Commission may not require the retrofitting of equipment to achieve the purposes of this section.

(g) through (h) * * *

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